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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,794	09/22/2005	Philip J. Barker	36-1941	4008

23117 7590 04/04/2007
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

TRAN, HOANG Q

ART UNIT	PAPER NUMBER
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2874

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

34

Office Action Summary	Application No.	Applicant(s)	
	10/550,794	BARKER ET AL.	
	Examiner	Art Unit	
	Hoang Tran	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 23-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 23-45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Newly submitted claims 23-32, 34-40, and 42-45 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

This application contains claims directed to the following patentably distinct species :

Species A: Is drawn to a device wherein the second array to be interconnected with conduit ends on the third array by means of tubular interconnects so that, by selecting the conduits whose ends on the second and third arrays are interconnected, between any selected conduit end in the first array and any selected conduit end in the fourth array (see Claim 1).

Species B: Is drawn to a device wherein a continuous path controlled by the bend control means is formed between the first patch panel and the second patch panel by using a patch tube to connect any conduits of the first patch panel to any conduit of the second patch panel (see Claims 23 and 40)

The species are independent or distinct because the application of Species A and B is mutually exclusive in the final system.

Currently, no claims are generic.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after

Art Unit: 2874

the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 17-22, drawn to a method of a method of install cables 385/135.
- II. Claims 42-45, drawn to a method of Breaking and routing optical fibers, classified in class 385, subclass 89.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Invention I refers to a method of install cables while invention II are related to a method of break fibers part and configuring them to route in a specified manner.

Since applicant has received an action on the merits for the originally presented invention (Species A and Group I Claims [17-22]) this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-32, 34-40, and 42-45 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-22 and 33 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Fasnacht et al. (US 5,535,298 "Fasnacht" hereafter).

In terms of claim 1 and 33, Fasnacht teaches a flexible suite for routing optical fibers within a telecommunication switch installation, the suite comprising: a first flexibility point and a second flexibility point, the first flex (at the junction labeled '30') including a first set of conduits each of the conduits having a first end disposed in a first array (42) and a second end disposed in a second array (44); the second flexibility point including a second set of conduits, each of the conduits having a first end disposed in a third array (horizontally opposite from 2nd array '44') and a second end disposed in a fourth array (horizontally opposite from 1st array '42'); the flexibility suite being so arranged as to permit the conduit ends on the second array to be interconnected with conduit ends on the third

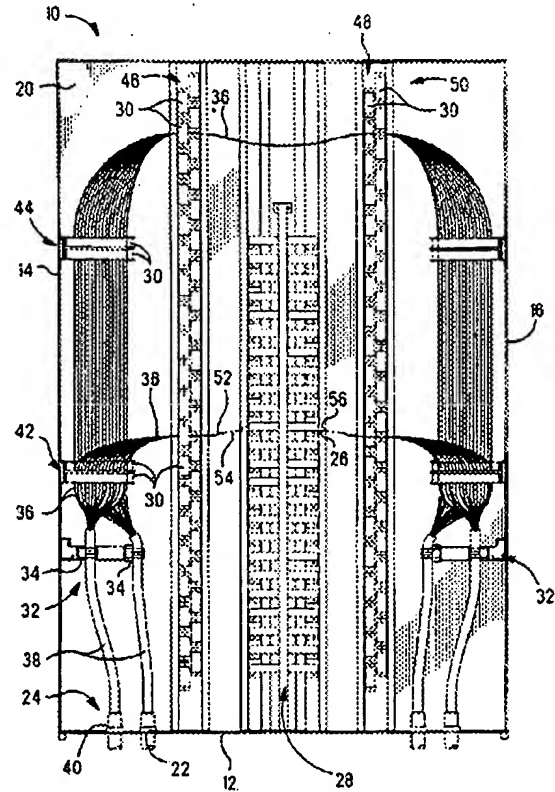


FIG. 3

Art Unit: 2874

array by means of tubular interconnects so that, by selecting the conduits whose ends on the second and third arrays are interconnected (36), a continuous path can be formed between any conduit end in the first array and any conduit end in the fourth array (28).

As for claims 2-6, the connectors (30) for connecting the 2nd, 3rd, and 4th arrays interconnect the conduit end to the tubular interconnect by means of a double-ended connector.

As for claims 9 and 10, the 1st array is arranged side-by-side with the 4th array and the 2nd array is arranged side-by-side with the 3rd array wherein one panel holds the 1st and 2nd array and the second panel holds the 3rd and 4th array (See Fig. 3 shown above).

In terms of claims 11 and 15, the panel is a router of optical signals that is able to receive an incoming cable (fig. 3 '22').

In terms of claim 12 and 13, the incoming cable is spliced to the blow-fiber member through the splice tray (26).

As to claim 14, the installation including a plurality of secondary flexible suites is drawn in detail shown in Fig. 5.

As to claim 16, the means for controlling the bend radius of the blown fiber is through the alignment of the connector and the management clip (col. 4, lines 3-7).

Regarding the method steps of claims 17-22 and 41, Kim discloses the method steps in teaching the structural limitations of the device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fasnacht in view of Barker et al. (US 5,557,703 "Barker" hereinafter).

Fasnacht discloses the invention of claim 1 wherein the tubular interconnects includes bores.

However, Fasnacht does not explicitly disclose the diameter of the bores. Barker discloses an installation method for blown fibers wherein Barker discloses a suitable tubular interconnects that may be used have a diameter of 3.5 mm (col. 12, line 29). The disclosure of Barker obviates the claimed limitation since the diameter falls within the range of 2 and 4 millimeters. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention as made to optimize the diameter of the tubular interconnect depending on the number of fibers that are blown into the tube. Of course, the diameter must be larger when there are a high number of fibers blown into the tube. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

Art Unit: 2874

Applicant's arguments filed December 11, 2006 have been fully considered but they are not persuasive.

Applicant's only argument is that the amended limitation to claim 1 "continuous conduit path" and the amended limitation to claims 11, 17, and 19 "continuous tubular pathway" overcame the prior art rejection of Fasnacht.

Firstly, claim 1 amended recited a *continuous conduit path*, even though Fasnacht's arrays are connected via a splice tray, but Fasnacht's prior still reads upon a continuous conduit path for the examiner considers the conduit path is the optical fiber.

Secondly, claims 11, 17, and 19 recited a "continuous tubular path[way]," examiner considers the fiber as the tubular pathway and the splice permits the pathways between the arrays to be continuous or "unbroken length of optical fiber."

Therefore, examiner maintains the rejected made in office action mailed on August 11, 2006.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 2874

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang Tran whose telephone number is 571-272-5049. The examiner can normally be reached on 9:00AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/550,794
Art Unit: 2874

Page 9

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Hoang Tran
AU 2874
March 28, 2007

A handwritten signature in black ink, appearing to read 'Sung Pak', with a long horizontal stroke extending to the right.

**SUNG PAK
PRIMARY EXAMINER**